

MINUTES
Texas Real Estate Commission
September 25, 2000
Conference Room 235, Texas Real Estate Commission
Austin, Texas

Chairman Michael Brodie called the regularly scheduled meeting of the Texas Real Estate Commission to order at 9:00 a.m., Monday, September 25, 2000. In addition to Chairman Brodie, members present were Ramon "Mic" Cantu, Lawrence Jokl, Deanna Mayfield, James Austin, Maria Gil, Chris Folmer and Kay Sutton. Mr. Brummett arrived at 9:07 a.m.

Staff present were: Wayne Thorburn, Administrator; Sabrina Hassumani, Assistant Administrator; Mark Moseley, General Counsel; Alan Waters, Director of Staff Services; Loretta DeHay, Director of Enforcement; James Coffman, Programmer, Information Services; Gwen Jackson, manager of the Education Section; Michelle Bowens, manager of the Licensing Section; Lorie Deanda, manager of the Communications Section; and Patricia Holder, Executive Assistant.

After calling the meeting to order, Chairman Brodie led the attendees in the pledge of allegiance and the Texas pledge of allegiance.

Chairman Brodie moved to agenda item two, minutes of August 14, 2000, Commission meeting. Ms. Sutton, seconded by Ms. Gil, moved to approve the minutes as submitted. The motion was adopted by unanimous vote.

Mr. Brodie moved to agenda item three, monthly staff reports; committee reports; report on AMPI conference in Leon, Guanajuato, Mexico.

Ms. Hassumani reported on two audits, one from the General Services Commission concerning TREC's open records policy and the other from the State Office of Risk Management concerning disaster recovery and day-to-day safety, health and staff issues. Both audits were favorable. Ms. Hassumani also reported that staff had met with a group of Russian officials touring in Texas.

Ms. Hassumani presented the report for the Licensing and Education division. Ms. Hassumani reported that there was an increase in the number of renewals filed this year compared to the same period last year. Ms. Hassumani introduced Ms. Gwen Jackson, manager of the Education section, for those who had not met her at the last meeting.

Ms. DeHay referred to the E1 report concerning the number of complaint cases opened and closed during the month of July. In August 359 cases were opened and 292 were closed, and currently 665 cases remain open. There was discussion concerning the number of late renewals which result in complaint cases being opened.

James Coffman presented the report for the Information Services division. Mr. Coffman reported on the web site access numbers and also that the on-line salesman renewal would be operational today. There was discussion concerning an on-line MCE inquiry function.

Mr. Waters introduced a new employee in the Cashier Section, Stephanie McCray. He reported that the General Services Commission issued a request for information concerning the upcoming lease bid.

Mr. Jokl reported on the AMPI meeting in Leon, Guanajuato, Mexico on September 5, 2000, which he, Chairman Brodie and Mr. Thorburn attended. Both Chairman Brodie and Mr. Thorburn offered comments regarding the meeting.

Mr. Brodie moved to agenda item four, general comments from visitors. Comments were offered by Minor Peeples, The Real Estate Institute in Corpus Christi, and Wayne Thorburn, Texas Real Estate Commission, concerning the new education evaluation procedure.

Chairman Brodie moved to agenda item five, discussion only of proposed amendments or repeal of: (a) 22 TAC §§535.205-535.226, concerning licensed inspectors; (b) 22 TAC §535.400, §535.403, concerning registered easement or right-of-way agents.

Mr. Moseley presented agenda item five for discussion. No comments had been received on either part of the item five. There was discussion concerning the number of easement or right-of-way agents.

Mr. Moseley presented agenda item six, discussion and possible action to propose amendments to: (a) 22 TAC §§537.11, 537.33, 537.42 and 537.46, concerning standard contract forms; (b) 22 TAC §535.62, concerning acceptable courses of study; (c) 22 TAC §535.71 and §535.72, concerning mandatory continuing education.

Mr. Moseley referred to item six (a) contained in the meeting material regarding the proposal of 22 TAC §§537.11, 537.33, 537.42 and 537.46, which would adopt by reference three revised forms, the Amendment, the Mediation Agreement and the Seller Financing Addendum. Ms. Sutton, seconded by Ms. Folmer, moved to propose the item as presented. The motion was adopted by unanimous vote.

Mr. Moseley referred to item six (b) in the meeting material regarding the proposal of 22 TAC §535.62, concerning acceptable courses of study. The amendment would not permit a school offering a core correspondence course to administer the examination sooner than three days after enrollment in the course. Mr. Brummett, seconded by Ms. Mayfield, moved to propose the amendment as presented. Comments were offered by Rick Knowles, Capital Real Estate Training and Texas Tech University-College of Business, concerning adding this requirement to the rules governing courses offered by alternative delivery methods. After discussion, Chairman Brodie deferred action on agenda items 6(b) and 6(c) until after executive session to allow staff time to draft appropriate language for a suggested amendment. Lynn Morgan, Austin Institute of Real Estate, offered comments on the amendment to the MCE rules.

Mr. Brodie moved to agenda item seven, executive session to discuss pending litigation pursuant to Texas Government Code, § 551.071, and, if necessary, to receive legal advice from general counsel on posted agenda items under Texas Government Code, §551.071(2). The executive session began at 9:40 a.m.

The meeting was called back to order at 9:50 a.m. by Chairman Brodie. Mr. Brodie moved to agenda item eight, discussion and possible action to authorize payments from recovery funds.

RF 00-016 Paul Hoffman, Independent Executor of the Estate of Hazel R. Hoffman, Deceased vs. Walter Emil Woodward, in the amount of \$125 actual damages and \$1,000

in attorneys fees. Mr. Jokl, seconded by Ms. Folmer, moved approval. The motion was adopted by unanimous vote.

The Chairman returned to agenda item six, parts (b) and (c), discussion and possible action to propose amendments to: (b) 22 TAC §535.62, concerning acceptable courses of study; (c) 22 TAC §535.71 and §535.72, concerning mandatory continuing education. Mr. Moseley suggested that the new language be placed in §535.71(r)(5)(C)(iii). The new amendment would read:

§535.71. Mandatory Continuing Education: Approval of Providers, Courses and Instructors.

(a)-(o) (No change.)

(p) *Correspondence courses. The commission may approve a provider to offer an MCE course by correspondence subject to the following conditions:*

(1)-(3) (No change.)

(4) *written course work required of students must be graded by an approved instructor or the provider's coordinator or director, who is available to answer students' questions or provide assistance as necessary, using answer keys approved by the instructor or provider; **[and]***

(5) *final examinations must be graded by the instructor or, if the examination is being graded mechanically or by use of a computer, by the provider, using answer keys approved by the instructor or provider; **and***

(6) final examinations may not be administered sooner than three days after the student has enrolled for the course.

(q) (No change.)

(r) *The commission may accept courses offered by alternative delivery methods subject to the following conditions.*

(1) - (4) (No change.)

(5) *Every provider offering an approved course under this subsection shall:*

(A)-(B) (No change.)

(C) *certify students as successfully completing the course only if the student;*

(i)-(ii) (No change.)

(iii) **no sooner than three days after the student enrolls for the course** has passed either:

(I) *a proctored final examination administered under controlled conditions to positively identified students, at a location and by an official approved by the commission and graded by the instructor or, if the examination is being graded mechanically or by use of a computer, by the provider, using answer keys approved by the instructor or provider; or*

(II) *an examination by use of a computer under conditions that satisfy the commission that the examinee is the same person who seeks MCE credit.*

There was discussion concerning the need for the amendments to 22 TAC §535.62 and §535.71

and §535.72. Comments were offered by Rick Knowles, Capital Real Estate Training Institute, and Nanci Hawes, Leonard-Hawes Real Estate School. After discussion, Mr. Brodie called for a vote on item 6(b), proposing the amendments of 22 TAC §535.62, as submitted, for publication. Mr. Austin, Mr. Cantu, Ms. Gil, Chairman Brodie and Mr. Jokl voted in favor of the motion. Ms. Sutton, Mr. Brummett, Ms. Folmer and Ms. Mayfield voted against the motion. The motion was adopted.

The Chairman called for a vote on item 6(c), proposing 22 TAC §535.71, as amended, and §535.72 as submitted, for publication. Mr. Austin, Mr. Cantu, Ms. Gil, Chairman Brodie and Mr. Jokl voted in favor of the proposed amendment. Ms. Sutton, Mr. Brummett, Ms. Folmer and Ms. Mayfield voted against the proposed amendment. The agenda item was approved for proposal.

Chairman Brodie moved to agenda item nine, annual review of fees and estimated revenues. Mr. Waters presented the agenda item for review. No action was taken.

Mr. Brodie moved to agenda item ten, discussion and possible action to approve the annual internal audit report. Mr. Waters presented the agenda item for discussion and possible action. Ms. Folmer, seconded by Ms. Mayfield, moved to approve the annual internal audit report. The motion was adopted by unanimous vote.

The Chairman moved to agenda item eleven, discussion and possible action on proposed legislation. Mr. Thorburn presented the agenda item for discussion and possible action. Mr. Thorburn referred to his memorandum of September 25, 2000, contained in the meeting material. Two items were added to Section 1, Requests Approved by the Commission in 1999 but Not Enacted into Law, of the memo:

- (1) One would amend The Real Estate License Act, Section 19(a), pertaining to administrative penalties. The amendment would change "any **licensee**" to "any **person**."
- (2) Benny McMahan, Texas Association of Realtors, presented a suggested amendment which would allow a person to sit for a salesperson's examination without having a sponsoring broker.

Mr. Brummett, seconded by Ms. Sutton, moved to approve Section 1 as amended with the two additional items. The motion was adopted by unanimous vote.

Mr. Thorburn presented Section 2 of his memo, items discussed as part of the strategic planning process. After discussion, Mr. Jokl, seconded by Mr. Brummett, moved to approve Section 2 as submitted. The motion was adopted by unanimous vote.

Chairman Brodie moved to agenda item twelve, consideration of complaint information. Ms. DeHay requested authorization to initiate investigations on the following people for failure to provide information in connection with their license renewals: Dale Brown, Charlie Frances Buloch, Brenda Joy Fitzwater, Mark Edward Isenmann, Terri Maureen McCarty and Victor C. Song. Ms. Sutton, seconded by Ms. Gil, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following people for failing to

complete their Mandatory Continuing Education hours or pay the \$200 fee needed to renew a license within the time required by rule: Laura Jane Aitken, Karen Elizabeth Benbow, Kathleen Anne Casas, Frances Parra Gutierrez, Sara Hinchman Howell, Homa Behrouzi Kahl, Margaret Ann Lair, Joseph William Powers, Paul Lawrence Scales and Ann Katherine Zicaro. Ms. Gil, seconded by Ms. Folmer, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following person in conjunction with information received from a late renewal of a real estate salesperson license in violation of §15(a)(6)(F) and §15(a)(6)(S): Lloyd Aaron Scott. Ms. Sutton, seconded by Ms. Gil, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

Ms. DeHay requested authorization to initiate investigations on the following licensed proprietary school instructor for removing or attempting to remove questions or answers from an examination site in violation of §535.61(a)(2): Morris Lamar Mosley. Ms. Sutton, seconded by Ms. Folmer, moved to authorize initiating the investigations. The motion was adopted by unanimous vote.

After discussion, it was decided that meetings would be scheduled for January 8, 2001, February 26, 2001, April 23, 2001, June 11, 2001 and July 16, 2001. The next regularly scheduled meeting of the Commission is November 6, 2000. The meeting was adjourned at 10:14 a.m.

APPROVED this the 6th day of November, A.D., 2000.

Chairman

ATTEST: _____